CREDIT UNION REFORM/CRA Relief for Small Banks

SUBJECT: **Credit Union Membership Access Act . . . H.R. 1151. D'Amato motion to table the Shelby amendment No. 3338.**

ACTION: MOTION TO TABLE AGREED TO, 59-39

SYNOPSIS: As reported with a substitute amendment, H.R. 1151, the Credit Union Membership Access Act, will amend the Federal Credit Union Act to preserve all existing multiple bond arrangements, to limit the growth of future multiple bond credit unions to groups of less than 3,000 members, to cap the percentage of total credit union assets that may be lent in business loans at any one time, and to subject credit unions to capital requirements and a system of prompt corrective action.

The Shelby amendment would give small banks (with assets of $250 million or less) an exemption from complying with the regulatory mandates of the Community Reinvestment Act (CRA).

Debate was limited by unanimous consent. After debate, Senator D'Amato moved to table the Shelby amendment. Generally, those favoring the motion to table opposed the amendment; those opposing the motion to table favored the amendment.

Those favoring the motion to table contended:

Argument 1:

The CRA has been a phenomenal success, and we are not about to do anything to weaken it. Our colleagues tell us that only 9 small banks were in noncompliance with its terms in 1997. We are absolutely delighted to hear that the CRA is working that well. We know that before the CRA was enacted, it was very difficult in many neighborhoods to get loans. Banks would even "redline" entire neighborhoods, refusing to give loans to people or businesses who were within certain geographical boundaries. At the same time, banks received substantial deposits from people within those neighborhoods. The CRA, despite the comments of some of our colleagues, has a very non-bureaucratic structure. Banks have extremely wide latitude in deciding how to meet the investment mandate. There are just

(See other side)

YEAS (59)

Republicans (15 or 28%)	Democrats (44 or 100%)	
Bond	Akaka	Johnson
Campbell	Baucus	Kennedy
Chafee	Biden	Kerrey
Collins	Bingaman	Kerry
D'Amato	Boxer	Kohl
Domenici	Breaux	Landrieu
Jeffords	Bryan	Lautenberg
Lugar	Bumpers	Leahy
Roth	Byrd	Levin
Santorum	Cleland	Lieberman
Smith, Gordon	Conrad	Mikulski
Snowe	Daschle	Moseley-Braun
Specter	Dodd	Moynihan
Stevens	Dorgan	Murray
Warner	Durbin	Reed
	Feingold	Reid
	Feinstein	Robb
	Ford	Rockefeller
	Glenn	Sarbanes
	Graham	Torricelli
	Hollings	Wellstone
	Inouye	Wyden

NAYS (39)

Republicans (39 or 72%)		Democrats (0 or 0%)
Abraham	Hatch	
Allard	Hutchinson	
Ashcroft	Hutchison	
Bennett	Inhofe	
Brownback	Kempthorne	
Burns	Kyl	
Coats	Lott	
Cochran	Mack	
Coverdell	McCain	
Craig	McConnell	
DeWine	Murkowski	
Enzi	Nickles	
Faircloth	Roberts	
Frist	Sessions	
Gorton	Shelby	
Gramm	Smith, Bob	
Grams	Thomas	
Grassley	Thompson	
Gregg	Thurmond	
Hagel		

NOT VOTING (2)

Republicans (1)	Democrats (1)
Helms-3AN	Harkin-4AY

EXPLANATION OF ABSENCE:
1—Official Business
2—Necessarily Absent
3—Illness
4—Other

SYMBOLS:
AY—Announced Yea
AN—Announced Nay
PY—Paired Yea
PN—Paired Nay

three simple criteria: a lending test to evaluate whether a bank has a record of meeting the credit needs of its local community; an investment test that evaluates how well a bank satisfies the credit needs of its local neighborhoods through qualified community investments; and a service test that evaluates how well the needs of the community are being met by the bank's retail delivery systems. Further, since a recent overhaul of the regulatory process, costs have been cut by 30 percent. When one listens to all of the complaints about this program, one might assume that it is costing banks money. However, the CRA does not relieve banks of their responsibility under other regulatory requirements to meet safety and soundness standards, and, in fact, banks have found that they are able to give sound financial services within their local areas. As the Chairman of the Federal Reserve put it, the CRA has opened new markets for banks that they were overlooking. If the Shelby amendment were to pass, the President would veto this bill, and we would support his veto. We support credit union reform, but not at the price of gutting the CRA.

Argument 2:

This amendment raises valid concerns that should be addressed, but not on this bill because they would provoke a veto.

Those opposing the motion to table contended:

The CRA provides that before a bank can expand, be bought, merge with another bank, or make other changes in its business structure, its record of community reinvestment must be reviewed. Such reviews are conducted constantly whether a bank is making any type of a change or not, and those reviews are published. The regulatory costs of complying with the CRA are large, and are especially burdensome for small banks. Also, when a bank wishes to make a change, it can be endlessly delayed by community activists who charge that it has not made enough local loans or otherwise has not offered enough local services. The CRA was passed initially because Members were concerned that in many communities, particularly poor communities, people put money into banks, but those banks then did not make loans back to the people in those communities. Instead, their only concern was their bottom-line. If they could make greater profits elsewhere, they lent elsewhere. Members felt that banks received many public benefits in return for their charter, and that it was therefore acceptable to demand that they perform a public benefit in return.

Most of the public benefits that banks, particularly small banks, received in 1977 when the CRA was enacted no longer exist or have been substantially eroded. Our colleagues have not challenged that fact. Instead, they have said that one benefit still exists--deposit insurance (which is a benefit for which the banks pay). Our colleagues point out that this benefit resulted in large payoffs when a large number of Savings and Loans (S&Ls) failed in the 1980s. Those payoffs went to depositors. The owners of those S&Ls, and sometimes people who were only marginally associated with their operation, suffered huge losses. Still, deposit insurance gives people a large incentive to put money into federally insured savings institutions, because they have no "moral hazard," or risk. Whichever bank offers the best terms is their only consideration. Banks thus are encouraged to engage in risky behavior in order to offer better terms and get more customers. Most banking regulation is intended to control such risky behavior. The CRA is different--it encourages banks to put money into local communities, even if they can make more money elsewhere.

According to a recent Federal Reserve study, regulatory costs comprise 13 percent of banks' noninterest expenses. That percentage is an average; the same study finds that smaller banks have much higher compliance costs. The CRA is responsible for a large part of that expense, $1 billion is spent by banks to comply with the CRA. It is twice as expensive to comply with as the Truth in Lending Act, and is 5 times as expensive to comply with as the Equal Credit Opportunity Act. Our colleagues say that efforts have been made that will cut costs by one-third, but it begs the question as to whether these costs should be imposed at all.

Fully 86 percent of all banks (8,110) in America have assets under $250 million. Together, they hold only 11.7 percent of all bank assets. Most of them have only one or two branch offices. These are small banks that invest almost entirely in their local communities. They do not make huge loans to foreign countries like their huge competitors; their money is invested with local businesses and citizens. They are able to survive and compete, despite their higher regulatory burden, because they understand their niche markets. They know local credit needs. The difference can be seen just be looking at the most common type of local loan, the real estate loan. For banks under $250 million, the real estate lending to assets ratio was 37 percent in 1997, compared to just 23.9 percent for banks with assets of more than $250 million. Not surprisingly, small banks, which exist to serve local communities, are rarely found to be below CRA requirements. For instance, in 1997 only 9 out of the 8,110 fell below those requirements.

Most of the benefits that small banks had at one time that protected them from competition are gone. Also, Federal regulation has steadily increased, which has put them at a further competitive disadvantage with their larger competitors. This bill, too, will increase pressure on them by allowing more direct competition from credit unions. Given these facts, should they really have to shoulder a $1 billion regulatory burden to meet community reinvestment standards that they in almost every circumstance are going to meet, considering that they exist to serve their local communities? The answer, obviously, is that they should not. The Shelby amendment would exempt small banks from the CRA. We urge our colleagues to support this amendment.